

SHAWN T. LEUTHOLD
ATTORNEY AT LAW
1671 THE ALAMEDA #203
SAN JOSE, CA 95126
TEL: 408-924-0132
FAX: 408-924-0134
CA STATE BAR NO. 178147

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RICHARD L. STEINING

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

E-FILING

Attorney for Plaintiff, Kaku Lab Corporation

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

C07 05297 BZ

KAKU LAB CORPORATION,

Plaintiff,

v.

HOT TOPIC, INC., a California Corporation;
and Does 1 through 20, inclusive,

Defendants

) Case No.
)
) COMPLAINT FOR COPYRIGHT
) INFRINGEMENT
)
) Jury Trial Demanded
)
)
)

Plaintiff KAKU LAB CORPORATION (hereafter "KAKU" or "VOODOO BABY")
alleges that:

JURISDICTION AND VENUE

1. This action arises under 17 USC §101 et seq., as hereinafter more fully appears.
2. This court has jurisdiction over this action pursuant to 28 U.S.C. §§1331, 1338 and 1367.
3. Venue is proper in this district pursuant to 28 U.S.C. §§1391(c) because Defendant HOT TOPIC, INC. ("HOT TOPIC") is a California corporation doing business in this judicial

1 district and division through at least three retail stores in the immediate vicinity of the San Jose,
2 division, including but not limited to Oakridge Mall, 135 Oakridge Mall, San Jose, CA, Valley
3 Fair Mall, 2855 Stevens Creek Blvd., Santa Clara, CA, and Eastridge Mall, One Eastridge Mall,
4 San Jose, CA.

5 INTRADISTRICT ASSIGNMENT

6 4. This action may be correctly assigned to this division based upon the Defendant HOT
7 TOPIC's status as a corporation conducting active retail business in the division. The primary
8 business location of the Plaintiff, KAKU LAB is in Fremont, CA, and on that basis, assignment
9 would be appropriate to either the Oakland or San Jose divisions.

10 THE PARTIES

11 5. Plaintiff KAKU LAB CORPORATION, which markets a series of hand-made string
12 dolls under the "Voodoo Baby" label is a California corporation with its principle place of
13 business in Fremont, California.

14 6. KAKU LAB CORPORATION is the exclusive U.S. licensed distributor and has been
15 assigned the right to enforce the United States copyrights of Saan_ha Limited Partnership (a
16 Thailand Limited Partnership) and its artist-designers Kanya Thuaylai, Tanayot Saihaikum and
17 Taweechas Boontoom, the creators and copyright originators of several registered as well as
18 additional pending and unregistered copyright designs for string dolls.

19 7. KAKU LAB CORPORATION has further designed many of its own unique string
20 doll designs for which it has applied or will be applying for copyright registration.

22 GENERAL FACTS

23 8. Plaintiff KAKU LAB CORPORATION, has spent significant time, effort and expense
24 in order to acquire exclusive distribution rights to Saan_ha's string doll designs. Saan_ha and its
25 artists have created many unique, high quality string doll designs, for which is has registered
26
27

1 United States copyrights. Saan_ha has also created many new, innovative, creative designs which
2 for which United States have not yet been registered.

3 9. Plaintiff KAKU LAB CORPORATION, has further designed and created its own
4 unique designs in which it owns the copyrights.

5 10. On or about October 18, 2006, KAKU LAB CORPORATION notified Defendant
6 HOT TOPIC of its copyright ownership in certain string doll designs.

7 11. Plaintiff KAKU LAB CORPORATION is informed and believes that HOT TOPIC
8 continues to market and sell string dolls which infringe on the copyrights of KAKU LAB
9 CORPORATION.

10 12. A list of the registered copyrights that have already issued to Saan_ha's
11 designers/artists is attached hereto as Exhibit A and is hereby incorporated by reference. This list
12 is not intended to be exclusive and additional registrations may have issued or be issued during the
13 pendency of this action.

14 13. In addition, Saan_ha and KAKU LAB CORPORATION have common-law copyright
15 interests in additional designs for which registration has not yet been completed.

16 14. On information and belief, Defendant has purchased and is marketing and selling
17 infringing "knock-off" products which copy Plaintiff's designs.

18 15. On information and belief Defendant or its agents and suppliers have created
19 derivative works based on Plaintiff's unique, copyright designs, including but not limited to
20 keychains, earrings, necklace pendants and so forth.

21
22 FIRST CAUSE OF ACTION – COPYRIGHT INFRINGEMENT

23 16. Plaintiff incorporates by reference paragraphs one through 15, above.

24 17. KAKU LAB CORPORATION, has spent significant time, effort and expense in order
25 to acquire exclusive distribution rights to Saan_ha's original and unique string doll designs.

1 18. KAKU LAB CORPORATION, has incurred significant expense promoting and
2 marketing its products.

3 19. On information and belief, Defendant has infringed and continues to infringe
4 Plaintiff's right under United States copyright laws by (1) reproducing the copyrighted works
5 without Plaintiff's authorization; (2) distributing copies of the copyright works to the public by
6 sales or other transfers of ownership without Plaintiff's authorization; and (3) creating or
7 distributing unauthorized derivative works without Plaintiff's authorization.

8 20. Plaintiff is suffering and will continue to suffer irreparable harm as a direct result of
9 Defendant's infringing conduct. Plaintiff is entitled to preliminary and permanent injunctions
10 against Defendant's continuing unauthorized sale, advertising for sale, dissemination and
11 distribution of Plaintiff's copyrighted works.

12 21. Plaintiff has sustained monetary damages as a result of Defendant's infringing
13 conduct, the precise amount of which will be proven at trial. Plaintiff is also entitled to
14 disgorgement of any profits unlawfully earned and/or received by Defendant as a result of its
15 infringing conduct.

16
17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

- 19 1. For compensatory damages in an amount subject to proof at trial, including prejudgment
20 interest thereon.
- 21 2. For reasonable and appropriate damages for willful copyright violation by the Defendant.
- 22 3. For a preliminary and permanent injunction against Defendant's continuing unauthorized
23 distribution, sale, advertising for sale, marketing and creation of derivative works based on
24 Plaintiff's copyrighted works.
- 25 4. For an order of restitution direction Defendant to disgorge any and all profits unlawfully
26 earned and/or received from the infringing conduct.
- 27

5. For an aware of attorneys fees and costs against Defendant.
6. For interest to accrue from the date of judgment at the statutory rate (10%).
7. For such other and further relief as the Court deems just and proper.

Dated: 10/17/2007


Shawn T. Leuthold
Attorney for Plaintiff Kaku Lab Corporation

Exhibit A -- Copyrights			
Designer	Name of doll (Saan_ha/ Kaku Lab)	Status	Date of registrat
Kanya Thuaylai	Captain Bad / Cap Hook	registered	2/21/2006
Kanya Thuaylai	Lover Boy/ In Love	registered	2/21/2006
Kanya Thuaylai	Judo Sensei/ Konfu Kid	registered	2/21/2006
Kanya Thuaylai	Heart Throbber/ Heart Stealer	registered	2/22/2006
Kanya Thuaylai	Little Prince	registered	2/21/2006
Tanayot Saihaikum	Little Angel/ Angelina	registered	2/21/2006
Tanayot Saihaikum	Collin the Pirate/ Venturer	registered	2/21/2006
Tanayot Saihaikum	Sid/ Mr T	registered	2/22/2006
Tanayot Saihaikum	El Diablo/ Demon Guard(Black)	registered	2/22/2006
Tanayot Saihaikum	Red Devil/ Demon Guard(Red)	registered	2/23/2006
Tanayot Saihaikum	Crazy Eyes/ Lumi	registered	2/22/2006
Tanayot Saihaikum	The Vampire/ Dracula	registered	2/21/2006
Taweechas Boontoom	Jo Ninja/ Ninja	registered	2/21/2006
Taweechas Boontoom	Mr. Mummy/ Distracter	registered	2/22/2006
Taweechas Boontoom	Monster Man/ Frankieheart	registered	2/22/2006
Taweechas Boontoom	The Zombie/ Voodoo Me	registered	2/22/2006
Taweechas Boontoom	Punkin/ Mr. Pumkin	registered	2/22/2006
Saan Ha	Cupid/ Cupid	not yet completed	
Saan Ha	Samurai/ Samurai	not yet completed	
Saan Ha	Witchy Woman/ Witch	not yet completed	
Saan Ha	Safety Boy/ Injuresub	not yet completed	
Saan Ha	Scarface/ Darkie	not yet completed	
Saan Ha	beelzebub/ Baby Satan	not yet completed	
Saan Ha	Ronin/ Ronin	not yet completed	
Saan Ha	The Killer	not yet completed	
Saan Ha	Monkey King/ Monkey King	not yet completed	
Saan Ha	Big Voodoo/ Voodoo You	not yet completed	
Saan Ha	Snowy/ Snowy	not yet completed	
Saan Ha	Santy/ Santa	not yet completed	
Saan Ha	Kill Jean	not yet completed	
Saan Ha	Sad Boy/ Melenco	not yet completed	
Saan Ha	Super Boy/ Super Boy	not yet completed	
Saan Ha	Gossip Girl/ Weepingvoovoo	not yet completed	